

No. 5:09-CV-00411-BR

Defendant.

Case 5:09-cv-00411-BR Document 102 Filed 01/18/13 Page 1 of 3

addition to the original). Here, the \$85.00 attendance fee, \$100.00 administration fee, and \$651.75 fee for the original transcript, which included a complimentary copy, are allowable costs. However, the \$72.10 fee for exhibit copies, \$15.00 document repository fee, and \$ 20.00 delivery fee are not taxable. See Nwaebube v. Employment Sec. Comm'n of N.C., No. 5:09-CV-395-F, 2012 WL 3643667, at *1 (E.D.N.C. Aug. 21, 2012) (disallowing costs of deposition transcript exhibits and postage fees); Local Civil Rule 54.1(c)(1)(a) (“[C]osts incident to the taking of depositions . . . normally include only the reporter’s fee and charge for the original transcript of the deposition[.]”). Accordingly, defendant is awarded \$836.75 in transcript fees.

B. Copy Fees

Defendant seeks \$76.23 in copy costs, which is comprised of 693 copies at \$0.11 per copy. “Fees for exemplification and the costs of making copies of any materials where the copies are necessarily obtained for use in the case” may be taxed as costs. 28 U.S.C. § 1920(4). “The concept of necessity for use in the case connotes something more than convenience” Har-Tzion v. Waves Surf & Sport, Inc., No. 7:08-CV-137-D, 2011 WL 3421323, at * 3 (E.D.N.C. Aug. 4, 2011) (quoting Cherry v. Champion Int’l Corp., 186 F.3d 442, 449 (4th Cir.1999)). “Copying costs are allowable if used as court exhibits, or if furnished to the court or opposing counsel.” PCS Phosphate Co., Inc. v. Norfolk S. Corp., No. 4:05-CV-55-D, 2008 WL 1901941, at *1 (E.D.N.C. Apr. 29, 2008) (citing Bd. of Dirs., Water’s Edge v. Anden Group, 135 F.R.D. 129, 138-39 (E.D.Va. 1991)). The cost of copies made solely for the convenience of counsel are generally not taxable under § 1920(4). Fells v. Virginia Dept. of Transp., 605 F. Supp. 2d 740, 743 (E.D. Va. 2009) (citing Thomas v. Treasury Mgmt. Ass’n, Inc., 158 F.R.D. 364, 372 (D. Md. 1994)).

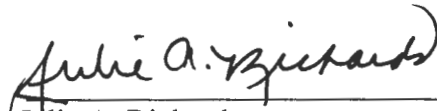
Defendant identified the requested copies with the legal activity, and counsel declared under

penalty of perjury that the requested costs were necessary to the defense of the case. See Decl. of Kimberly Fogarty [D.E. 90-2]. Having reviewed the itemized copy costs, the undersigned finds that it would be inappropriate to tax plaintiff with the cost associated with defendant's motion to correct its e-filing error (88 copies) and the correction of the error (46 copies) and will disallow copy costs of \$14.74. With respect to the remaining copy costs, defendant has satisfied its burden under § 1920(4), and is awarded \$61.49 in copy costs.

CONCLUSION

In summary, as the prevailing party and pursuant to 28 U.S.C. § 1920, defendant is awarded \$836.75 in transcript costs and \$61.49 in copy costs. Total costs in the amount of \$898.24 are taxed against plaintiff and shall be included in the judgment.

SO ORDERED. This 18th day of January 2013.


Julie A. Richards
Clerk of Court